

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for Authorization to increase its Revenues for Water Service by \$4,134,600 or 2.55% in the year 2011, by \$33,105,800 or 19.68% in the year 2012, by \$9,897,200 or 4.92% in the year 2013, and by \$10,874,600 or 5.16% in the year 2014.

And Related Matter.

Application 10-07-007
(Filed July 1, 2010)

Application 11-09-016

**DECISION ADOPTING THE SETTLEMENT ON
THE LARKFIELD DISTRICT MORATORIUM TRIGGER MECHANISM
AND ADOPTING THE SETTLEMENT ON
THE LOW INCOME SURCREDIT INCREASE**

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**DECISION ADOPTING THE SETTLEMENT ON
THE LARKFIELD DISTRICT MORATORIUM TRIGGER MECHANISM
AND ADOPTING THE SETTLEMENT ON
THE LOW INCOME SURCREDIT INCREASE**

1. Summary

This decision adopts a settlement agreement between California American Water Company, the Division of Ratepayer Advocates, and the Natural Resources Defense Council on an increase to the low-income surcredit to 20 percent. This decision also adopts a settlement agreement between California American Water Company, the County of Sonoma and the Mark West Area Community Services Committee on a service connection moratorium trigger mechanism for the Larkfield District.

This proceeding remains open to resolve other Phase 2 issues.

2. Background

On July 1, 2010 California American Water Company (Cal-Am) filed its first statewide general rate case for the years 2011 through 2014. On December 12, 2011, a revised scoping memo was issued establishing a Phase 2 of the proceeding. The revised scoping memo placed several issues, including rate design for all districts and the Walerga Special Facilities Fee in Phase 2.¹ The revised scoping memo also consolidated Application (A.) 11-09-016, the Cal-Am application for a service connection moratorium in its Larkfield District, with general rate case A.10-07-007 and placed the issue in Phase 2 of this proceeding.

¹ Phase 2 of the proceeding also includes the review of the Water Revenue Adjustment Mechanisms (WRAM) currently in place in Cal-Am's districts and whether a WRAM should be adopted for the Sacramento District.

On June 14, 2012, the Commission issued Decision (D.) 12-06-016 adopting a revenue requirement for all of Cal-Am's districts for years 2012, 2013, 2014 and 2015. The decision also denied a joint motion by Cal-Am and the Natural Resources Defense Council (NRDC) to adopt a settlement regarding an increase to the low income surcredit. The issue was moved into Phase 2 of this proceeding.

All parties to the proceeding received notice of a settlement conference. On July 19, 2012, Cal-Am, the Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN), and NRDC filed a motion to adopt a settlement on rate design to generate the revenue requirement adopted in D.12-06-016. There were no comments or protests to the settlement. The Commission issued D.12-11-006 on November 14, 2012, adopting the rate design settlement.

On September 5, 2012, Cal-Am, DRA, and NRDC filed a motion to adopt a settlement to increase the low-income surcredit for water service to 20.²

On December 10, 2012 Cal-Am, the County of Sonoma (Sonoma County) and the Mark West Area Community Services Committee (Mark West) filed a motion to adopt a settlement on a service connection moratorium trigger mechanism for the Larkfield District.³

A complete description of Cal-Am's service territory and the full procedural background of this proceeding are contained in sections 9 and 10 of D.12-06-016, the revenue requirement portion of this proceeding.

² <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M027/K380/27380695.PDF>

³ <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M039/K002/39002489.PDF>

3. The Proposed Settlements

3.1. The Proposed Settlement Increasing the Low Income Surcredit to 20 Percent

On September 5, 2012, Cal-Am, DRA, and NRDC filed a motion to adopt a partial settlement agreement to increase the existing surcredit for low income customers to 20 percent. The increased surcredit will apply to the average residential customer's monthly bill in Cal-Am's Larkfield, Los Angeles County, Sacramento, San Diego County, and Ventura County Districts, and the Ambler Park, Ralph Lane and Toro service areas of the Monterey County District. The partial settlement also increases to 20 percent the surcredit for low income residential customers of the Monterey County Wastewater District. The maximum discount provided by the proposed increased surcredit shall not exceed any participating customer's total monthly water charges. The 20 percent surcredit parallels the discount received by low income energy customers who are enrolled in the California Alternate Rates for Energy (CARE) program.

The settlement proposes that Cal-Am's revenue reduction resulting from the increased low income surcredit should be tracked in an existing memorandum account for later recovery. Recovery of the reduced revenue will occur either at the time the balance reaches two percent of Cal-Am's revenue requirement, or in Cal-Am's next general rate case. Recovery will be achieved through a slightly higher surcharge paid by non-low income customers in each district. The rates in the Chualar service area of the Monterey County District are currently 100 percent subsidized and therefore Chualar is not included in the 20 percent surcredit proposed in the settlement.

The table below illustrates the monthly surcredit changes per district and service area or the monthly increased discount per customer.

Table 1

Cal-Am District	Low Income Customers	Current Surcredit	Proposed Surcredit	Existing Monthly Revenue Reduction	Proposed Monthly Revenue Reduction	Change in Monthly Revenue Reduction
Larkfield	67	\$14.50	\$19.00	\$971.50	\$1273.00	\$301.50
Los Angeles						
Duarte	483	\$8.50	\$9.50	\$4105.50	\$4588.50	\$483.00
San Marin	609	\$10.50	\$12.00	\$6394.50	\$7308.00	\$913.50
Baldwin Hills	151	\$8.50	\$9.50	\$1283.50	\$1434.50	
San Diego	494	\$6.00	\$7.00	\$2964.00	\$3458.00	\$494.00
Ventura	365	\$14.00	\$14.00	\$5110.00	\$5110.00	\$0
Sacramento	2968	\$9.00	\$10.00	\$26712.00	\$29680.00	\$2968.00
Monterey	1345 ⁴					Monthly Surcredit Increase Per Cust.
Toro	(included above)	\$23.00	\$25.50			\$2.50
Ralph Lane	(included above)	\$11.50	\$11.50			\$0
Ambler Park	(included above)	\$13.00	\$14.00			\$1.00
Wastewater ⁵ Active Sys	New Program	\$9.00	\$11.00			\$2.00
Wastewater Passive Sys	New Program	\$20.00	\$24.50			\$4.50

⁴ The settlement did not include a breakdown of low income customers by Monterey County District service area, just the total number of low income customers in the district as a whole.

⁵ The surcredit for wastewater customers was approved in D.12-11-006 and when the settlement was filed, there were no subscribers to the wastewater low income program.

3.2. The Proposed Settlement on a Service Connection Moratorium Trigger in the Larkfield District

On December 10, 2012 Cal-Am, Sonoma County, and Mark West filed a motion seeking Commission adoption of a settlement agreement on a moratorium trigger mechanism for Cal-Am's Larkfield District. Cal-Am filed A.11-09-016 seeking a service connection moratorium in its Larkfield District because it was unable to comply with California Code of Regulations, Title 22, Section 64554 and the Commission's General Order 103-A which requires water systems to maintain the ability to deliver sufficient water to meet the largest daily volume demand in the preceding 10 years. On July 18, 2003, Larkfield used 2.19 million gallons, exceeding its reliable production of 1.52 million gallons per day (MGD). Mark West and Sonoma County filed protests to Cal-Am's application for a moratorium on October 24, 2011, and October 31, 2011, respectively.

The settlement agreement provides that a service connection moratorium in the Larkfield District will not be implemented. Instead, the settlement proposes a moratorium trigger mechanism requiring Cal-Am to take specific action regarding the moratorium if demand exceeds supply in certain circumstances over the next six years. The settlement states that the moratorium trigger mechanism is proposed in order to protect current customers' reliable water supply, allow for continued new connections within the current service area boundaries (which will fund a new source of water through the recent Commission-approved connection fees in D.12-06-016) and ensure the permanent water supply for the district matches the actual need going forward.

The settling parties state that the Larkfield District currently has a reliable supply of 1.52 MGD and a six-year agreement with the Sonoma County Water

Agency (SCWA) to provide an additional .33 MGD.⁶ This increases the Larkfield District's reliable supply to 1.85 MGD or 55.5 million gallons (MG) per month. For the moratorium trigger mechanism, the settling parties agreed to a baseline of 80 percent of system capacity or 44.4 MG per month during the six-year period in conjunction with a modified maximum daily demand of 1.85 MGD which includes the .33 MGD additional supply from the SCWA. The California Department of Public Health (DPH), the agency with jurisdiction over water quality and supply, accepted Cal-Am's proposal for a variance to 1.85 MGD (based on the agreement with SCWA for an additional .33 MGD) of the required MDD in the Larkfield District under certain conditions that were incorporated into the trigger mechanism settlement agreement discussed below.⁷

The settlement provides that a moratorium will be triggered if SCWA does not approve the six-year .33 MGD supplemental water agreement. In that event, Cal-Am will file a Tier 1 advice letter to place a temporary moratorium on new connections in the Larkfield District. The settlement also provides that if daily demand exceeds 1.85 MGD, Cal-Am shall notify DPH within three days of the event to discuss immediate conservation measures and acceleration of source supply development. If demand exceeds 44.4 MG per month for three consecutive months, Cal-Am will file a Tier 1 advice letter with the Commission to place a temporary moratorium on all new connections in the Larkfield District.

The settling parties agree they will work together to identify and develop additional sources of water supply and receive Commission approval for the

⁶ The effective date of the agreement with SCWA will be the date the agreement is approved by SCWA's board of directors.

⁷ The DPH letter is included as Attachment B.

project(s) prior to the expiration of the six-year agreement with SCWA. The settlement provides that Cal-Am may pursue a supplemental project as part of its 2016 general rate case filing if a supplemental source has not been identified and approved by the Commission by June 2015.

Finally, the settlement provides that beginning in 2016, Cal-Am may recalculate the Larkfield District system's sustainable monthly production based on additional permanent supply that becomes available during that time. This will provide three additional years of data about water consumption trends in the Larkfield District and a three-year cushion to develop additional permanent supplies before the six-year supplemental agreement with SCWA expires.

4. Settlement Standard of Review

Cal-Am as the applicant bears the burden of proof to show that the regulatory relief it requests is just and reasonable.

In order for the Commission to consider a proposed settlement in this proceeding as being in the public interest, the Commission must be convinced that the parties had a sound and thorough understanding of the application, and all of the underlying assumptions and data included in the record. This level of understanding of the application and development of an adequate record is necessary to meet our requirements for considering any settlement. These requirements are set forth in Rule 12.1(a)⁸ which states:

Parties may, by written motion any time after the first prehearing conference and within 30 days after the last day of hearing, propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the

⁸ All referenced Rules are the Commission's Rules of Practice and Procedure. (http://docs.cpuc.ca.gov/published/RULES_PRAC_PROC/70731.htm)

proceeding. Settlements need not be joined by all parties; however, settlements in applications must be signed by the applicant....

When a settlement pertains to a proceeding under a Rate Case Plan or other proceeding in which a comparison exhibit would ordinarily be filed, the motion must be supported by a comparison exhibit indicating the impact of the settlement in relation to the utility's application and, if the participating staff supports the settlement, in relation to the issues staff contested, or would have contested, in a hearing.

Rule 12.1(d) provides that:

The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.

Rule 12.5 limits the future applicability of a settlement:

Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.

In short, we must find whether the settlement comports with Rule 12.1(d), which requires a settlement to be "reasonable in light of the whole record, consistent with law, and in the public interest." We address below whether the settlements meet these three requirements.

4.1. Does the 20 Percent Low Income Surcredit Settlement Meet the Standard of Review for Settlements

The record consists of all filed documents, the served testimony, the proposed settlement and the motion for its adoption. The settlement resolves the low income surcredit issue in a balanced way and reflects a compromise of the parties' positions. Low income ratepayers receive a higher discount, which comports with the discount received by energy utility customers in the CARE program, while other ratepayers are not unduly burdened by the additional costs of the program.

The settling parties represent a broad spectrum of interests. Cal-Am represents the utility and its shareholders, while DRA, TURN and NRDC represent the interest of ratepayers. Thus, the settling parties are experienced in public utility litigation and the settlement is the result of extensive and vigorous negotiations. The parties to the settlement have a sound and thorough understanding of the issues, and all of the underlying assumptions and data and could therefore make informed decisions in the settlement process. The settlement to increase the low income surcredit to 20 percent is reasonable in light of the whole record, because the settling parties fairly reflect the affected interests, these parties actively participated in this proceeding, and the settlement fairly and reasonably resolves the low income surcredit issue.

The Commission could have resolved the low income surcredit issue in favor of any of the parties. Accordingly, the settling parties have balanced a variety of issues of importance to them and have agreed to the settlement as a reasonable means by which to resolve this issue. Thus, for the reasons discussed above, and taken as a whole, the settlement is reasonable in light of the whole record.

There are no terms within the settlement agreement that would bind the Commission in the future or violate existing law. Therefore, we find the settlement consistent with the law.

The settling parties addressed and resolved the low income surcredit issues identified in the proceeding. The settlement brings the low income surcredit for Cal-Am's water customers on par with the surcredit given to low income energy utility customers participating in the CARE program. The increased discount ensures that low income customers have access to an affordable, safe and reliable water supply. And as previously noted the settling parties represent a broad spectrum of utility and consumer interests. We may therefore conclude that the settlement is in the public interest.

There is a public policy favoring the settlement of disputes to avoid costly and protracted litigation.⁹ The settlement to increase the low income surcredit to 20 percent satisfies this public policy preference for the following reasons.

The sponsors of the settlement represent the interests of Cal-Am and its customers. Thus, the settling parties represent the interests of shareholders and ratepayers that have an interest in the services provide by Cal-Am.

The settlement to increase the low income surcredit to 20 percent serves the public interest by resolving competing concerns in a collaborative and cooperative manner. By reaching agreement, the parties avoid the costs of further litigation in this proceeding, and eliminate the possible litigation costs for rehearing and appeal.

⁹ D.88-12-083, 30 CPUC 2d 189, 221.

Approval of the settlement to increase the low income surcredit to 20 percent provides speedy and complete resolution of this issue. Thus, the settlement meets the applicable settlement standards of Rule 12.1(d) and therefore should be accorded the same deference the Commission accords settlements generally, and should be adopted.

Adoption of the low income surcredit increase settlement is binding on all parties to the proceeding. However, pursuant to Rule 12.5, the settlement does not bind or otherwise impose a precedent in this or any future proceeding. We specifically note, therefore, that Cal-Am must not presume in any subsequent application that the Commission would deem the outcome adopted herein to be presumed reasonable and it must, therefore, fully justify every request and ratemaking proposal without reference to, or reliance on, the adoption of the settlement.

4.2. Does the Larkfield Moratorium Trigger Mechanism Settlement Meet the Standard of Review for Settlements

The record on the Larkfield District moratorium trigger mechanism is comprised of all filed documents, the proposed settlement and the motion for its adoption. The settlement resolves the Larkfield District service connection moratorium issue in a balanced way and reflects a compromise of the parties' positions.

The settling parties represent a broad spectrum of interests. Cal-Am represents the utility and its shareholders, Sonoma County represents the interests of the County and Mark West represents the interests of the existing Larkfield District customers. Thus, the settling parties are experienced in public utility litigation and the settlement is the result of extensive and vigorous negotiations. The parties to the settlement have a sound and thorough

understanding of the issues, and all of the underlying assumptions and data and could therefore make informed decision in the settlement process. Therefore the settlement on the Larkfield District service connection moratorium is reasonable in light of the whole record, because the settling parties fairly reflect the affected interests, these parties actively participated in this proceeding, and the settlement fairly and reasonably resolves the service connection moratorium issue.

The Commission could have resolved the Larkfield District service connection moratorium issue in favor of any of the parties. Accordingly, the settling parties have balanced a variety of issues of importance to them and have agreed to the settlement as a reasonable means by which to resolve this issue. Thus, for the reasons discussed above, and taken as a whole, the settlement is reasonable in light of the whole record.

There are no terms within the moratorium trigger mechanism settlement agreement that would bind the Commission in the future or violate existing law. DPH has accepted the modified MDD figure and conditioned its acceptance on the moratorium trigger mechanisms included in the settlement. Therefore, the settlement is consistent with the law.

The settling parties addressed and resolved the service connection moratorium issues identified in the proceeding. The settlement will protect current customers' safe, reliable water supply, allow for continued new connections within the current service area boundary and ensure that a permanent water supply for the Larkfield District matches its actual needs going forward. As previously noted the settling parties represent a broad spectrum of utility and consumer interests. We may therefore conclude that the settlement is in the public interest.

There is a public policy favoring the settlement of disputes to avoid costly and protracted litigation. The Larkfield District moratorium trigger mechanism satisfies this public policy preference for the following reasons.

The sponsors of the settlement represent the interests of Cal-Am and its customers. Thus, the settling parties represent the interests of shareholders and ratepayers that have an interest in the services provide by Cal-Am.

The Larkfield District moratorium trigger mechanism settlement serves the public interest by resolving competing concerns in a collaborative and cooperative manner. By reaching agreement, the parties avoid the costs of further litigation in this proceeding, and eliminate the possible litigation costs for rehearing and appeal.

Approval of the Larkfield District moratorium trigger mechanism settlement provides speedy and complete resolution of this issue. Thus, the settlement meets the applicable settlement standards of Rule 12.1(d) and therefore should be accorded the same deference the Commission accords settlements generally, and should be adopted.

Adoption of the Larkfield District moratorium trigger mechanism settlement is binding on all parties to the proceeding. However, pursuant to Rule 12.5, the settlement does not bind or otherwise impose a precedent in this or any future proceeding. We specifically note, therefore, that Cal-Am must not presume in any subsequent application that the Commission would deem the outcome adopted herein to be presumed reasonable and it must, therefore, fully justify every request and ratemaking proposal without reference to, or reliance on, the adoption of the settlement.

5. Comments on Proposed Decision

The proposed decision of Administrative Law Judge Linda A. Rochester in this matter was mailed to the parties in accordance with § 311 of the Public Utilities Code and comments are allowed pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments were filed on the proposed decision.

6. Assignment of Proceeding

Michel P. Florio is the assigned Commissioner, and Linda A. Rochester and Douglas M. Long are the assigned Administrative Law Judges in this proceeding.

Findings of Fact

1. On September 5, 2012, Cal-Am, DRA, TURN and NRDC filed a joint motion for adoption of a settlement agreement proposing an increase to the low income surcredit for Cal-Am's Larkfield, Los Angeles County, Sacramento, San Diego County, and Ventura County Districts and the Toro, Ralph Lane and Ambler Park service areas of the Monterey County District. The settlement also included an increase to the discount for low income wastewater customers in the Monterey County District.

2. The record for the proposed settlement is composed of the application, testimony of the parties and all other filings.

3. The parties to the settlement increasing the low income surcredit adopted by this decision have a sound and thorough understanding of the issues, and all of the underlying assumptions and data and could therefore make informed decisions in the settlement process.

4. The proposed settlement on the increase to the low-income surcredit is a balance between the original positions as otherwise litigated in the prepared testimony of the parties.

5. The increased surcredit ensures that low income customers continue to have access to an affordable, safe and reliable water supply.

6. No comments on the settlement proposing an increase to the low income surcredit were filed.

7. On December 10, 2012, Cal-Am, Sonoma County and Mark West filed a joint motion for adoption of a settlement agreement implementing a new service connection moratorium trigger mechanism for the Larkfield District.

8. The record for the proposed settlement is composed of the application, protests and all other filings by the parties.

9. The parties to the settlement on the Larkfield District moratorium trigger mechanism adopted by the decision have a sound and thorough understanding of the issues, and all of the underlying assumptions and data and could therefore make informed decisions in the settlement process.

10. The settlement on the Larkfield District moratorium trigger mechanism is a balance between the positions stated by the parties in the original application and protests.

11. The settlement on the Larkfield District moratorium trigger mechanism will protect current customers' safe, reliable water supply, allow for continued new connections within the current service area boundary and ensure that a permanent water supply for the Larkfield District matches its actual needs going forward.

12. No comments on the Larkfield District moratorium trigger mechanism settlement were filed.

Conclusions of Law

1. Applicant alone bears the burden of proof to show that its requests are reasonable.
2. The proposed settlement to increase the low income surcredit is reasonable because it fairly balances the interests of the utility, low income ratepayers and other ratepayers in Cal-Am's various districts.
3. The settlement to increase the low income surcredit is reasonable in light of the whole record.
4. The settlement to increase the low income surcredit is consistent with the law and does not contravene or compromise any statutory provisions or Commission decisions.
5. The settlement to increase the low income surcredit is in the public interest.
6. The proposed settlement on the Larkfield District moratorium trigger mechanism is reasonable because it balances the interest of the utility, the County of Sonoma and the existing ratepayers.
7. The Larkfield District moratorium trigger mechanism settlement agreement is reasonable in light of the whole record.
8. The Larkfield District moratorium trigger mechanism settlement agreement is consistent with the law and does not contravene or compromise any statutory provisions or Commission decisions.
9. The Larkfield District moratorium trigger mechanism settlement agreement is in the public interest.
10. Adoption of the settlements is binding on all parties to the proceeding. However, pursuant to Rule 12.5, the settlements do not bind or otherwise impose a precedent in this or any future proceeding. Cal-Am must not presume in any subsequent application that the Commission would deem the outcome adopted

herein to be presumed reasonable and it must, therefore, fully justify every request and ratemaking proposal without reference to, or reliance on, the adoption of the settlements.

11. This proceeding should remain open for resolution of other Phase 2 issues.

O R D E R

IT IS ORDERED that:

1. The joint motion of California American Water Company, the Natural Resources Defense Council, the Utility Reform Network and the Division of Ratepayer Advocates to adopt the September 5, 2012, settlement on increasing the low income surcredit to 20 percent is granted.

2. California American Water Company is authorized to file by Tier 1 advice letter the revised tariff schedules, included in this decision as Attachment A, for California American Water Company's Larkfield, Los Angeles County, San Diego County, and Ventura County Districts and the Toro, Ralph Lane and Ambler Park service areas of the Monterey County District and the Monterey County Wastewater District, and to concurrently cancel its present schedules for such service. This filing must be approved by the Commission's Division of Water and Audits. The revised schedules shall be effective no earlier than five days after the effective date of this decision, and shall apply only to service rendered on or after the effective date of all districts' tariff schedules.

3. The joint motion of California American Water Company, the County of Sonoma and the Mark West Area Community Services Committee to adopt the

December 10, 2012 settlement agreement for a moratorium trigger mechanism on new connections in the Larkfield District is granted.

4. Pursuant to Rule 12.5, the settlements do not bind or otherwise impose a precedent in this or any future proceeding. In subsequent applications, California American Water Company must fully justify every request and ratemaking proposal without reference to, or reliance on, the adoption of the settlements herein.

5. Applications 10-07-007 and 11-09-016 remain open for the resolution of additional issues in Phase 2.

This order is effective today.

Dated _____, at San Francisco, California.